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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 SHARON BARNUM, et al.,
11 Plaintiff(s),

12 v.

13 EQUIFAX INFORMATION SERVICES,
14 LLC,
15 Defendant(s).

Case No.: 2:16-cv-02866-RFB-NJK

Order

[Docket No. 125]

16 Pending before the Court is Plaintiff's motion to seal and/or redact certain exhibits filed in
17 conjunction with a motion to compel and for sanctions. Docket No. 125. Equifax and non-party
18 FIS Card filed declarations in support of sealing. *See* Docket Nos. 133, 136.

19 The Ninth Circuit has held that there is a strong presumption of public access to judicial
20 records. *See Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006); *Foltz*
21 *v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003). A party seeking to file
22 documents under seal bears the burden of overcoming that presumption. *Pintos v. Pac. Creditors*
23 *Ass'n*, 605 F.3d 665, 678 (9th Cir. 2010) (quoting *Kamakana*, 447 F.3d at 1178). Parties seeking
24 to maintain the confidentiality of documents attached to non-dispositive motions must make a
25 "particularized showing" of "good cause." *See Kamakana*, 447 F.3d at 1180 (quoting *Foltz*, 331
26 F.3d at 1137).

27 The motion to seal relates to six exhibits, and redactions to motion papers. With respect
28 to Exhibits A-2 and D, an insufficient explanation has been provided as to how Equifax's assertion

1 of competitive disadvantage applies to the particular information in the exhibits. *See* Docket No.
2 133 at ¶¶ 5-8. Moreover, Equifax provides no indication why redaction, rather than outright
3 sealing, is not appropriate since it is obvious that some of the information in the exhibits is not
4 sealable. *E.g.*, Docket No. 123-2 at ¶ 5 (“Equifax was initially served with the complaint in this
5 case on December 6, 2016”).¹

6 With respect to Exhibit F, Equifax has now filed that document on the public docket with
7 limited redactions. Docket No. 133-1. Equifax submits that these redacted portions of the report
8 reveal its proprietary credit report processes and company policies, as well as its computing
9 systems. Docket No. 133 at 3. Assuming that accurately describes the information at issue,
10 Equifax provides no explanation how the good cause standard is met with respect to these
11 redactions (e.g., that it would suffer competitive harm through the disclosure of this information).

12 With respect to Exhibit G, Equifax apparently takes the position that it need not make any
13 showing of sealability because the deposition took place three weeks before it filed its declaration.
14 Docket No. 133 at 3. The Court ordered that the filing of a document under seal in conjunction
15 with an emergency motion requires a showing within 3 days that the standards for sealing that
16 document can be met. Docket No. 22 at 2 n.1. Equifax failed to do so. To the extent Equifax seeks
17 secrecy for this exhibit or parts thereof,² it shall file a declaration explaining how the good cause
18 standard is met by July 26, 2018. Failure to file a declaration by that date will result in the
19 unsealing of this exhibit in its entirety.

20 With respect to Exhibit J, FIS Card indicates that the exhibit contains proprietary
21 information, the revelation of which would be competitively harmful. *See* Docket No. 136-1 at ¶
22

23 ¹ A request to seal documents must be “narrowly tailored” to remove from the public sphere
24 only the material that warrants secrecy. *E.g.*, *Ervine v. Warden*, 214 F. Supp. 3d 917, 919 (E.D.
25 Cal. 2016) (citing *Press-Enterprise Co. v. Superior Court of Cal.*, 464 U.S. 501 (1986)). As a
26 corollary, to the extent any confidential information can be easily redacted while leaving
27 meaningful information available to the public, the Court must order that redacted versions be filed
rather than sealing entire documents. *Foltz*, 331 F.3d at 1137; *see also In re Roman Catholic*
Archbishop of Portland in Oregon, 661 F.3d 417, 425 (9th Cir. 2011) (the district court must “keep
in mind the possibility of redacting the sensitive material”).

28 ² If Equifax seeks only redactions to the exhibit, it shall file on the public docket a redacted
version of the exhibit.

1 13. The Court simply fails to discern from the declaration provided how revelation of this
2 document would be harmful to FIS Card. Moreover, and significantly, the exact same document
3 is already part of the public record in this case. *See* Docket No. 96-32.

4 The Court **SETS** a hearing on the motion to seal for 3:00 p.m. on August 9, 2018, in
5 Courtroom 3D.³ Any party or non-party seeking sealing of any of the subject information shall
6 appear for the hearing. Plaintiffs' counsel shall provide notice of this order to FIS Card as soon as
7 practicable, and shall file a proof of service by July 20, 2018.

8 IT IS SO ORDERED.

9 Dated: July 19, 2018

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12 Nancy J. Koppe
13 United States Magistrate Judge
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27 ³ In addition to the above exhibits, the Court will also hear argument on the request to seal
28 the compact disc that was manually filed (Exhibit I) and the request to redact portions of the
motions to compel and for sanctions (Docket Nos. 121, 122).